



Dan Skopec
Acting Secretary

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 7763

April 14, 2006

Mr. William Lent, Director
San Mateo County Environmental Health
455 Country Center
Redwood City, California 94063

Dear Mr. Lent:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of San Mateo County Environmental Health Certified Unified Program Agency (CUPA) on August 30 and August 31, 2005. The evaluation consisted of a review of program elements, an in-office program review and field inspections. Following the evaluation, the state evaluators completed an Evaluation Summary of Findings, which was reviewed with your agency's program management.

The evaluation summary of findings includes identified deficiencies, corrective action to be taken and timeframes for correction of identified deficiencies. Two additional evaluation documents completed during the evaluation are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

I have reviewed the enclosed copy of the Evaluation Summary of Findings and I find that San Mateo County Environmental Health Certified CUPA program performance is satisfactory with some improvement needed. To update our files on your progress toward correcting the identified deficiencies, please provide a status report, using the attached format, within 30 days from receipt of this letter.

Cal/EPA also noted during this evaluation that the San Mateo County Environmental Health Certified CUPA has worked to bring about program innovations, such as moving towards converting agency files to an electronic format for easy access and maintaining a user friendly web site that promotes program elements and allows public access to an on-line complaint form, information charts of fee and charges, a downloadable application to review agency files and a customer satisfaction survey. We will be sharing program innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosures

cc: Mr. John Paine (Sent Via Email)
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STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY



Alan C. Lloyd, Ph.D.
Agency Secretary

CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION
SUMMARY OF FINDINGS

Arnold
Schwarzenegger
Governor

CUPA: San Mateo County Environmental Health

Evaluation Date: August 30-31, 2005

EVALUATION TEAM

Cal/EPA: Tina Gonzales

SWRCB: Terry Snyder

OES: Brian Abeel

DTSC: Tom Asoo

OSFM: Francis Mateo

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Tina Gonzales at (916) 322-2155.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>	<u>Timeframe</u>
1	The CUPA's 1998 Area Plan is outdated. The CUPA is currently amending their Area Plan. The OES evaluator conducted a review of the incomplete draft area plan and provided comments.	The CUPA shall update the area plan and forward a copy of the final version to the evaluation team leader within 6 months.	
2	The Summary Report 3 for years 2001-02, 02-03, 03-04 document that the CUPA only inspected 8 out of 30 stationary sources (27 % of their inspection frequency). The CUPA did acknowledge that when other Unified Program element inspections (i.e. HMBP, HWG, USTs, etc) are conducted, the inspector checks to see if the stationary source has submitted a Cal/ARP registration. All the stationary sources received a letter from the CUPA, informing them that if they currently have a regulated substance in a process above the threshold quantity, they are required to develop an RMP. The RMP submission period for all the stationary sources expired in August	Within the next 6 months, develop a mechanism to inspect all stationary sources within a 3 year period.	

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	2005. The CUPA sent a reminder letter in August 2005 to the stationary sources and required action within 15 days. A more in-depth inspection of all stationary sources will begin when the RMPs are received from the stationary sources.		
3	The CUPA does not have a procedure necessary to implement a dispute resolution process when disputes arise between the owner or operator of a stationary source and the CUPA.	Develop a dispute resolution process within the next 6 months.	
4	The CUPA Self-Audit shows that they do not have procedures for instituted which would allow for appeals of a dispute resolution.	Develop a dispute resolution process within the next 6 months.	
5	The CUPA is not consistently providing a Notice to Comply/Summary of Violation at the conclusion of the inspection for observed violations. The CUPA has a Notice to Comply/Summary of Violation form; however, staff is not always using the form.	The CUPA shall refresh staff on hazardous waste inspection procedures for leaving a Notice to Comply/Summary of Violation at the conclusion of the inspection for all Minor, Class II and Class I violations.	Immediately
6	The CUPA is not always citing violations in a manner consistent with the definitions of Minor, Class II, or Class I as provided in statute and regulation. The pre-printed form used to identify the classification of a violation was not consistent with the definitions found in statute and regulation. Inaccurate Annual Enforcement Summary Report data has occurred due to the pre-printed forms containing the inaccurate classifications. The CUPA has modified the pre-printed forms to address the proper classification issue; however, it was discovered that the data management system that produces the summary reports was not modified to reflect the new changes.	The CUPA shall modify the data management system so that accurate classification of violations can be reported.	30 days
7	During the file review, it was observed that some businesses with noted hazardous waste violations were lacking follow up (e.g. return to compliance certification, letter identifying completed corrective measures..	The CUPA will begin insuring business' will submit a certification that indicates return to compliance within the mandated 30 day timeframe.	30 days

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8	The CUPA is not ensuring that PBR businesses are submitting their annual PBR notifications.	The CUPA shall re-familiarize themselves with the PBR procedures and require PBR facilities to submit their annual notification.	4 months

CUPA Representative

(Print Name)

(Signature)

Evaluation Team Leader

(Print Name)

(Signature)

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

1. **Observation:** Cal/EPA did not find a copy of the CUPA's application on file at its headquarters office in Sacramento.

Recommendation: Please provide a copy of the CUPA application to Cal/EPA at its earliest convenience. This will assist Cal/EPA in looking for information on the CUPA programs for evaluations and reduce time and questions needed to ask at the evaluations.

2. **Observation:** Training sessions listed under CUPA Conference do not discern what classes were actually attended by all of the CUPA employees.

Recommendation: It would be a good idea when listing classes attended, especially at the CUPA Conferences, to separately list each class attended and the hours, which will show and count better towards on-going training.

3. **Observation:** In reviewing some of the business plan files, the Annual Certification for chemical inventories were missing. During a staff interview, regarding this matter, CUPA staff explained that businesses were inspected every other year and during this time, the staff would ask for their annual certification.

Recommendation: The CUPA should establish an effective mechanism that would ensure that each regulated business should be submitting their certification for chemical inventories on time every year for example, by sending form letters ahead of time reminding them that their annual certification is due. The CUPA should also ensure that a hard copy is included in every business plan file.

4. **Observation:** The CUPA does not have written Standard Operating Procedures (SOPs) for implementing and enforcing the Cal/ARP program.

Recommendation: Develop written SOPs for

- General Requirements (Article 1)
- Registration (Article 2)
- Risk Management Plan Components and Submission Requirements (Article 3)
- Hazard Assessment (Article 4)
- Program 2 Prevention Program (Article 5)
- Program 3 Prevention Program (Article 6)
- Emergency Response Program (Article 7)
- Regulated Substances for Accidental Release Prevention (Article 8)
- Other Requirements (Article 9)
- Local Program Evaluation (Article 10)
- Technical Assistance (Article 11)

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to ensure consistent implementation and enforcement of the Cal/ARP program. With the onset of conducting a completeness review of all the RMPs in the county, developing written SOPs will help the CUPA effectively, efficiently, and timely conduct the RMP review process.

5. **Observation:** During the file review, it was observed that some inspection reports did not obtain the facility representative's signature acknowledging receipt of the inspection report.

Recommendation: Obtaining the facility representative's signature and date of signature verifies that the inspection report was given to the facility on that particular date. The signature and date serves to strengthen potential enforcement cases.

6. **Observation:** During the file review, it was observed that some of the inspection reports did not note consent to conduct inspections.

Recommendation: The CUPA should always ask for consent to conduct inspections, and whenever they anticipate taking samples and photographs. In addition, documenting the name and title of the individual who has authority to grant consent establishes a solid legal foundation supporting the inspector's right to conduct the inspection.

7. **Observation:** The CUPA does not typically take photographs during their inspections.

Recommendation: Photographs are useful to document violations and the conditions at the facility. Photographs can help strengthen your case should enforcement become necessary. Always remember to date stamp photographs.

8. **Observations:** The deficiencies and corrective measures were identified in the Notice to Comply/Summary of Violations; however, there were times when additional details should have been provided.

Recommendations: The CUPA should be more descriptive when detailing violations and corrective measures (e.g. the number, size, and location of containers/tanks in violation. Identify the specific requirements needed to correct the violation).

9. **Observation:** The CUPA currently has one Notice to Comply/Summary of Violation form (lists Minor, Class II, and Class I violations all together) that acts as the certification of return to compliance. It is conceivable that a facility could have corrected their Minor violations within required time frames, but the Class II or Class I violations are still outstanding. This could lead to the facility holding off on returning the certification until all the violations have been corrected.

Recommendation: The CUPA should look into developing a separate Notice to Comply form for documenting Minor violations and a Summary of Violation form for

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documenting Class II or Class I violations (each form having their own certification of return to compliance)

- 10. Observation:** At the time of the evaluation, the CUPA could not locate all the complaints DTSC referred to the CUPA.

Recommendation: The CUPA should modify their tracking of complaints to ensure that all complaints are being tracked and addressed. DTSC will include the Hazardous Waste Program Manager on all complaint referrals. The program manager should ensure that complaints are assigned to staff for follow up and tracked until the complaint can be closed out.

- 11. Observation:** The CUPA does not document Owner/Operator's permission to inspect the facility prior to the UST inspection. The CUPA's inspection checklist does have fields to enter the Owner's and/or Operator's name but does not indicate that permission was granted.

Recommendation: The CUPA should ask for consent to conduct inspections, take samples, and photographs. In addition, document the name and title of the individual who has authority to grant consent along with the date the confirmation was made. Receiving consent establishes a solid legal foundation supporting the inspector's right to conduct the inspection. The CUPA should note any conditions imposed by the person granting permission on the inspection checklist.

- 12. Observation:** The CUPA files do not contain certain compliance and enforcement documentation to enable someone reviewing the files to follow the timeline and ongoing activity. The CUPA's UST policy and procedures manual states that confidential documents shall only be available to the inspector and program manager. The manual does not indicate that the inspector maintains these confidential documents separate from the file until the enforcement action has been completed.

Recommendation: The SWRCB recommends that the CUPA update their policy and procedures manual to indicate that the confidential information required to be segregated within the CUPA's files for easy removal during public information requests is being maintained by the inspector until the ongoing enforcement process has been resolved or completed.

- 13. Observation:** The CUPA has a policy of retaining all documentation that is submitted by the UST facility and it appears as though the filing system has become cumbersome. The CUPA has asked for updated filing materials, is storing bulky installation plans off site, and is converting the system to allow more electronic storage of documentation. When a file is removed from the file storage area, there is no process to identify the location of the missing file and who has taken control of the file(s).

Recommendation: The SWRCB recommends that the CUPA review their policy for storing documentation and only maintain those documents required or necessary to indicate the UST

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facility is in compliance. This will help manage the file size and should reduce the number of storage shelves needed. Also the CUPA should use index cards inserted in the space where the folder was kept to help relocate and refile the folder correctly. Also the index card could include the name of the person who has removed the file from the storage bin.

- 14. Observation:** The 6 files reviewed generally did not show (in the file) follow up actions to verify corrections of minor violations noted in the inspection summary. Some minimal observations were noted in inspection reports, but the majority of files reviewed did not include observations. The deficiencies and corrective measures were identified in the Notice to Comply/Summary of Violations; however, there were times when additional details should have been provided. The CUPA does track uncorrected violations in the Envision database and provides a listing to the inspector for follow-up. The CUPA has begun to enter return to compliance dates for each facility in the database. The CUPA has recently developed a Summary of Violations and Notice to Comply form as part of the Inspection Checklist that is left with the Owner/Operator documenting the violations and timeframe within which to comply. The violation description written by the inspector sometimes does not depict enough information for the UST facility owner to understand what is required to return to compliance. The Inspection Checklist provides a field for the owner to sign that he is in receipt of a copy of the checklist and if necessary the summary and compliance notification.

Recommendation: The SWRCB recommends that the CUPA use the new Summary of Violations and Notice to Comply form and file the original documents and the Return to Compliance document submitted by the UST facility. This will permit easy follow up of required UST compliance. The inspector should describe the violation in significant detail for the owner/operator to fully understand what is required of them to correct the violation and return to compliance. The CUPA should try and utilize the observation section of the inspection reports to help paint a better picture of the facility, such as, the condition of the facility, the processes observed, the different records reviewed, and documenting what was discussed with the facility. Also the SWRCB recommends that the owner/operator signature field on the checklist be preceded by information stating that by signing the Inspection Checklist the owner/operator attests to receipt of the checklist and violation/compliance pages, understands fully what is listed on these pages and knows what is required (if any) to return their facility to compliance.

- 15. Observation:** One file reviewed does not show the permit, financial responsibility, etc. have been updated with the new owners information and identifying the new Designated Operator.

Recommendation: The SWRCB recommends the CUPA develop a checklist when UST ownership changes so that all the required forms and documents are updated and placed in the file and that the new permit has been issued signifying facility compliance.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA has provided useful information available on the San Mateo Environmental Health Web Site. The useful public information include a pocket guide to Emergency Preparedness, information charts on County Fees and Charges, On-line complaint form, Application to review files, and an Environmental Health Customer Satisfaction Survey.
2. The CUPA has a strong support relationship with the DA's Office for enforcement cases, and the CUPA has also used the AEO process successfully as part of their enforcement process as well.
3. The CUPA has developed a comprehensive inspection and enforcement plan and has taken various enforcement actions in all the CUPA programs oversight. The CUPA is actively pursuing cases and has collected fines and penalties with their enforcement actions.
4. The CUPA actively works with the fire agencies on hazardous materials emergency response, Fire Prevention activities and exercises. They make available four (4) trained staff members who have HazMat Specialist capabilities as personnel resources or members of the entry team during an incident.
5. The CUPA actively participates in fire chiefs meetings to identify, discuss and work toward resolving business plan, hazardous materials and emergency response issues.
6. The CUPA is working toward converting to electronic filing by scanning all their documents for future ease-of-use by the CUPA, the fire agencies and the regulated community.
7. A review of the CUPA's training documentation files show current classes within the last few years in applicable subjects including various Hazardous Waste refreshers, CUPA Conferences, Medical/Dental Waste training classes, and also includes those passing the Current ICC Exam.
8. The CUPA has initiated implementation of the Cal/ARP program. While conducting other Unified Program element inspections (i.e. HMBP, HWG, USTs, etc), the CUPA checks to see if the businesses submitted a Cal/ARP registration. The CUPA used this and business plan information to determine which businesses has a regulated substance in a process above the threshold quantity. In August 2004, all these businesses received a letter from the CUPA, informing them that if they currently have a regulated substance in a process above the threshold quantity, they are required to develop an RMP. The RMP submission period for all the businesses will expire on September 8th, 2005. The CUPA sent a reminder letter in August 2005 to the delinquent businesses, requiring action within 15 days. A more in-depth inspection of all stationary sources will begin when the RMPs are received from the stationary sources. The CUPA developed a draft Cal/ARP RMP Inspection/Review Report for conducting on-site inspections of stationary sources.
9. The CUPA ensures that each business annually submits its hazardous materials inventory or a certification statement on or before March 1 by either:
 - Receiving such information from the businesses by mail or in-person at the CUPA office, or

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- By conducting an inspection at the business verifying the business plan is current and complete.

If the business plan inventory or other portions of the plan is delinquent or incomplete, then the CUPA takes appropriate informal or formal enforcement.

10. The CUPA monitors their program fees on a monthly basis against their annual budget and revenues are compared annually to look at cost recovery. Fees may then be revised through their board of supervisors if need be.
11. The CUPA's Enforcement Procedures Manual contains good examples of flow charts showing the Enforcement Procedures for Class violations noted during inspections, comprehensive information on AEO procedures and outlines of documents, including expedited AEO procedures, enforcement penalty matrix, and examples of categories of violations.
12. The CUPA has developed a hazardous waste generator training module. The CUPA hands out copies of the training module to facilities that need help with understanding hazardous waste generator requirements. The CUPA also hands out fact sheets, labels, and guidance material to help facilities comply with program requirements.
13. The CUPA has developed a questionnaire to help identify medical offices that may be generating silver only waste. The CUPA devotes approximately 10% of their time to the silver only and universal waste generator population (agreed upon time for addressing these facilities is 5%). The CUPA also inspects facilities more frequently than the mandated time frames (in order to meet consolidated inspection frequencies, hazardous waste generators are being inspected every two years).
14. The CUPA does an excellent job of conducting UST facility annual inspections for all sites and coordinates the inspection with the Annual Monitoring Certification and testing activity.
15. The CUPA tracks activity for all UST facilities via their Envision database and reminds inspectors of upcoming compliance deadlines and other requirements. The database is being updated to allow online tracking of all past and ongoing activity for each UST designated by the inspector doing the work.
16. The CUPA is always looking for ways to improve their program and participates in statewide CUPA activities on a regular basis.
17. The CUPA has designated an enforcement coordinator to track all program enforcement activities by facility for both AEOs and referrals to the District Attorney. This includes maintaining an enforcement folder with the current documents and actions.